

### **REMARKS**

This is in response to the Office Action mailed 3/23/2007.

Applicants would like to respectfully address that there have been **numerous non-final office actions** since the filing of 01/25/2001 and procedures, as outlined in the M.P.E.P., have not be adhered to by the Examiner. Specifically, a review of the file wrapper indicates the following **Six** Office Actions between 07/2003 and 03/2007:

1. Non-Final Office Action dated 07/03/2003
2. Final Office Action dated 01/02/2004
3. Non-Final Office Action dated 07/14/2004 (in response to Appeal Brief 05/03/2004)
4. Non-Final Office Action dated 12/29/2004
5. Final Office Action dated 06/29/2005
6. Non-Final Office Action dated 03/23/2007 (in response to BPAI reversal of earlier rejection)

As can be seen in the file wrapper, in addition to the numerous Office Actions from the Examiner and subsequent responses by the Applicants, two Appeal briefs were also filed on 05/03/2004 and 11/18/2005, respectively. The first Appeal Brief of 05/03/2004 resulted in the Examiner's withdrawal of the Final Office Action and the second Appeal Brief of 11/18/2005 resulted in the Board of Patent Appeals and Interferences (BPAI) reversing all of the Examiner's rejections.

Applicants would like to respectfully remind the Supervisory Patent Examiner that as per MPEP 707.02, **“Application up for Third Action and 5-Year Applications,”** the **“supervisory patent examiners should impress their Assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them”** and **“any application that has been pending five years should be carefully studied by the supervisory patent examiner and every effort should be made to terminate its prosecution.”**

Further, as noted in the MPEP 707.05, “the Examiner should cite appropriate prior art which is nearest to the subject matter defined in the claims. When such prior art is cited, its pertinence should be explained.” Applicant wish to bring to the Board’s attention the numerous times the Examiner has withdrawn his rejections, just to issue another office action.

Thus, Applicants respectfully conclude and submit that a carefully study of the file history of Applicant’s application indicates that proper M.P.E.P. procedures were **not** followed to identify the best prior art and terminate prosecution as evidenced by the numerous office actions that were issued between the years of 2003 and 2007. It is Applicants’ hope that the Examiner and the Examiner’s Supervisor take these facts into consideration prior to issuing another Office Action, if such an Office Action is warranted.

This response should obviate outstanding issues and make the remaining claims allowable. Reconsideration of this application is respectfully requested in view of this response.

### STATUS OF CLAIMS

1. Claims 1-13 and 15-33 are pending.
2. Claims 1, 2, 5-10, 12, 13, 15-17, 19, 20-27, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,732,080 (Blants).
3. Claims 3, 4, 11, 18 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blants.

### OVERVIEW OF CLAIMED INVENTION

The present invention provides for a system to enhance sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule of service, wherein the system comprises: an event retriever generating an event pair which comprises a target value and an actual value associated with the schedule of services; an event observer receiving the event pairs from the event retriever, calculating the difference between said actual and target value, and based on one or more rules from a first set of rules, identifying and notifying a window of opportunity detector regarding potential windows of opportunities, wherein each potential window of opportunity defines a time period of customer inactivity; a window of opportunity detector which receives said potential windows opportunities, detects, based on one or more rules from a set of second rules, if a window of opportunity exists, and if so, matches said detected windows of opportunities with service providers for the purposes of providing a new product or a service separate from said scheduled service.

The present invention also provides for a method to enhance sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule of service,

wherein the method comprises the steps of: electronically acquiring service schedules of one or more service providers; detecting an unexpected change in the schedule; checking if potential customers are blocked due to the unexpected change in schedule, the blocking defining a period of inactivity; detecting one or more potential windows of opportunities for sales to the potential customers; checking if service providers benefit from the detected potential windows of opportunities, and providing notification regarding the potential windows of opportunities to service providers who benefit from such information, and wherein the service providers offer a new product or service separate from the scheduled service to the potential customer during the period of inactivity.

The present invention also provides for a method for enhancing sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule of travel services, wherein the method comprises the steps of: extracting standardized event data comprising an actual event value and a target value from said travel service provider via a network; comparing, based on one or more rules from a set of first rules, the difference of said actual value and target value against a threshold value; detecting a window of opportunity based on one or more rules from a set of second rules, and distributing said window of opportunity information to said service providers for enhancing said service provider's sales, if said detection of window of opportunity occurs said sales providers providing a new product or a new service separate from said scheduled service.

The present invention also provides for an article of manufacture comprising a computer user medium having computer readable code embodied therein which provides for a e-commerce

method for enhancing sales to potential customers, wherein the article comprises: computer readable code electronically acquiring service schedules of one or more service providers; computer readable code detecting an unexpected change in said schedule; checking if potential customers are blocked due to said unexpected change in schedule, said blocking defining a period of inactivity; computer readable code detecting one or more windows of opportunities for sales to said potential customers; computer readable code checking if service providers benefit from said detected potential windows of opportunities, and computer readable code providing notification regarding said potential windows of opportunities to service providers who benefit from such information, wherein said service providers offer a new product or service separate from said scheduled service to said potential customers during said period of inactivity.

#### REJECTIONS UNDER 35 U.S.C. §102(e)

Claims 1, 2, 5-10, 12, 13, 15-17, 19, 20-27, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,732,080 (hereafter, Blants). Applicants respectfully disagree with the Examiner that the claims are taught by the cited art (i.e., Blants). The Manual for Patenting Examining Procedure (MPEP) § 2131 clearly sets forth the standard for rejecting a claim under 35 U.S.C. § 102(b). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP § 2131, quoting *Verdegaal Bros. v. Union Oil Co. of California* 2 USPQ2d 1051, 1053 (Fed Cir. 1987)). In this case, the cited art (i.e., Blants) fails to teach the claimed invention as required by the MPEP.

Blants merely provides a scheduling and rescheduling calendar services to users of mobile terminals, which affords the user of such a mobile terminal worldwide access to scheduled services from service providers and/or information services provided from information service providers.

By contrast, the presently claimed invention provides for a system and a method for enhancing sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule or services (time, location). The present invention automatically identifies windows of opportunity (time, physical location), and once such a window of opportunity is detected, the invention determines whether people are affected directly from the change of a schedule. This information is then used by service providers to act quickly, in order to enhance sales. The present invention does not need to know who the affected people are, nor their preferences (profile data). Heuristics to determine a window of opportunity are based only on schedule changes, which are associated with a rule database. Thus, the present system utilizes network-based technologies and communications to generate or increase additional sales for service providers.

As an example, consider a train, which is scheduled to leave at 7:00 AM, but due to unknown circumstances the schedule is changed to 7:45 AM. There is a good chance that there are people who use this train to commute to work, and were not informed in time about this unexpected change in a scheduled event. Most of these people probably will decide to wait there until 7:45 AM, instead of investigating alternatives. The present invention's system and method identifies such unexpected events as "window of opportunities". This information is then used

by service providers to deliver useful services to these waiting people in order to help them satisfy their demands or utilize their blocked time. Hence, service providers like food delivery services, newspaper delivery services, taxicab services, etc., utilize an opportunistic approach to deliver useful services for these waiting people in order to help meet their demands (e.g., by delivering food, etc.) or utilize their blocked time (e.g., by selling a magazine, providing entertainment, etc.)

Specifically, claim 1 of applicants' invention provides for a system for enhancing sales to service providers by utilizing an opportunistic approach based on unexpected change in a schedule of service. The system of applicants' claim 1 comprises an event retriever, an event observer, and a window of opportunity detector. The event retriever generates an event pair which comprises a target value and an actual value associated with the schedule of services. The event observer receives the event pairs from the event retriever, calculates the difference between the actual and target value, and based on one or more rules from a first set of rules, identifies and notifies a window of opportunity detector regarding potential windows of opportunities, wherein each potential window of opportunity defines a time period of customer inactivity. The window of opportunity detector receives potential windows of opportunities, detects, based on one more rules from a set of second rules, if a window of opportunity exists, and if so, matches the detected windows of opportunities with service providers for the purposes of providing a new product or a service *separate* from said scheduled service.

With regards to independent claim 1, the Examiner appears to equate the Blants' "user service providers 27" to Applicants' "event retriever" and Blants' "user service provider servers

28” to Applicants’ “event observer”. However, Blants’ “user service providers 27”, by Blants’ own words, refers merely to “an airline, hotel, or provider of performance” (for example, see column 9, lines 23-25) and “user service provider servers 28” refers merely to servers associated with such airlines, hotels, or provider or performance. Blants’ user service provider servers 28, however, explicitly or implicitly fail to identifying and notifying a window of opportunity detector regarding potential windows of opportunity based on a period of customer inactivity.

On pages 2-3 of the Office Action of 03/23/2007, the Examiner appears to indicate that such service providers (i.e., “airline”, “hotel”, or “provider of performance”) generate an event pair comprising a target value, which is equated to scheduled position, and an actual value, which is equated to actual/current position. On pages 2-3 of the Office Action of 03/23/2007, the Examiner also appears to equate scheduling servers 20 to Applicants’ “window of opportunity detector”. A closer read of Blants, however, merely suggests that element 20 is a scheduling server that schedules and/or reschedules calendaring entries with a mobile device.

Further, on the same pages, the Examiner erroneously concludes that column 13, lines 47-59 of Blants teaches that the scheduling server 20 provides for “a new product or a service separate from the scheduled service”. Column 13, lines 47-59 are reproduced below:

“Actualized events also have an effect on planned events when a conflict is detected with the software of the at least one calendaring and scheduling server 20. The top arrow leading from "actualized events" to "planned events" shows that an event 50 at



an earlier time had to be *rescheduled* into an event 60 occurring in the future. The reason that *rescheduling* occurs is that the software detects that a *scheduling conflict* exists and further interaction through the communication system 16 with at least one scheduling server 20 has occurred and optionally with the user, to *reschedule the scheduled event* with either the same user service provider 27 or another user service provider which offered the same or other service at a later time.” (emphasis added).

The above citation merely teaches rescheduling upon discovery of a conflict. However, Applicants’ invention requires the providing of a new product or service from service providers during the period of inactivity (for example, if a scheduled train is delayed, then, other services such as cab ride, food, magazines, etc., are offered by service providers to persons that use such a train). The Blants reference does not provide any recitations or suggestions providing these new product or service during the period of customer inactivity.

For clarification, the Examiner needs to look no further than the response of the Board of Patent Appeals and Interferences, which correctly interpreted Applicants’ claims to provide “a new product or service separate from the scheduled product or service” (see, for example, page 5 of the BPAI’s response mailed Nov 1, 2006 with respect to this case).

Since Blants fails to teach a scheduling server 20 that provides for “a new product or a service separate from the scheduled service”, Applicants respectfully assert that the Blants

reference neither anticipates nor renders obvious Applicants' claim 1. Allowance is, therefore, respectfully requested of claim 1.

If the Examiner still feels that Blants' scheduling server 20 teaches providing "a new product or a service separate from the scheduled service" based upon matching detected windows of opportunities with service providers, Applicants' wish to emphasize that it is the duty of the Examiner to specifically point out limitations with respect to each and every claim element such that Applicants' are aware of how the Examiner is applying a reference in a rejection. Specifically, §1.104(c)(2) of Title 37 of the Code of Federal Regulations and section 707 of the M.P.E.P. explicitly states that "the particular part relied on must be designated" and "the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified".

Applicants' independent claim 15 provide for a method for enhancing the sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule of service. Claim 15 comprises the steps of: electronically acquiring service schedules of one or more service providers, detecting an unexpected change in said schedule, checking if potential customers are blocked due to said unexpected change in schedule wherein blocking defines a period of inactivity, detecting one or more potential windows of opportunities for sales to said potential customers, checking if service providers benefit from said detected potential windows of opportunities, and providing notification regarding said potential windows of opportunities to service providers who benefit from such information. The service providers in

claim 15 offer a new product or service separate from said scheduled service to said potential customer during the period of inactivity.

The above-mentioned arguments with respect to independent claim 1 substantially apply to claim 15. For example, as mentioned above, Blants fails to teach a scheduling server 20 that provides for “a new product or a service separate from the scheduled service”. Therefore, Applicants respectfully assert that the Blants reference neither anticipates nor renders obvious Applicants’ claim 15.

Further, the Examiner appears to equate element numbers cited with respect to the rejection of Applicants’ claim 1 as teaching the features of Applicants method claim 15. However, the Examiner has failed to identify, with specificity, where in Blants many of the steps of Applicants claim 15 occur. For example, claim 15 specifically recites the step of “checking if service providers benefit from said potential widow of opportunities”. The Examiner, in his response of 06/23/2007, fails to specifically identify where in Blants such a teaching is found. Applicants respectfully assert that such a teaching is neither taught nor suggested by Blants.

Since Blants fails to teach many of the features of independent claim 15, Applicants respectfully assert that Blants cannot anticipate or render obvious the teachings of claim 15. Allowance is, therefore, respectfully requested of claim 15.

Applicants’ independent claim 33 provides for an article of manufacture implementing the steps of Claim 15, wherein the sales for service providers is enhanced by utilizing an

opportunistic approach based on an unexpected change in a schedule of service. Hence, the arguments set forth by the applicant for claim 15 substantially apply to claim 33 of the applicants' invention. Allowance is, therefore, respectfully requested of claim 33.

Applicants' independent claim 20 provides for a method for enhancing the sales for service providers by utilizing an opportunistic approach based on an unexpected change in a schedule of travel services. The method of claim 20 comprises the steps of: extracting standardized event data (comprising an actual event value and a target value) from said travel service provider via a network, comparing (based on one or more rules from a set of first rules) the difference of said actual value and target value against a threshold value, detecting a window of opportunity based on one or more rules from a set of second rules, and distributing the window of opportunity information to service providers for enhancing said service providers' sales. If the window of opportunity is detected, the service providers offer the customer a new product or a new service that is different from the scheduled service.

The above-mentioned arguments with respect to independent claim 1 substantially apply to claim 20. For example, as mentioned above, Blants fails to teach a scheduling server 20 that provides for "a new product or a service separate from the scheduled service". Further, the Examiner's citations and the Blants reference in its entirety fail to teach the distribution of window of opportunity information to service providers to enhance their sales.

Therefore, at least for the reasons set forth above, Applicants respectfully assert that Blants neither anticipates nor renders obvious Applicants' claim 20. Allowance is, therefore, respectfully requested of claim 20.

The above-presented arguments for independent claims 1, 15, 20, and 33 substantially apply to dependent claims 2, 5-10, 12, 13, 16-17, 19, 21-27, and 32, as they inherit all the features of the claim from which they depend. Hence, allowance is respectfully requested of dependent claims 2, 5-10, 12, 13, 16-17, 19, 21-27, and 32.

#### REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 3, 4, 11, 18 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blants. To be properly rejected under U.S.C. § 103(a), each and every element of the claims must be addressed through known prior art or be recognized as an obvious variation thereof. Applicants contend that the Blants reference fails to provide many of the limitations of applicants' pending claims.

The above mentioned arguments for independent claims 1, 15 and 20 also substantially apply to dependent claims 3, 4, 11, 13, 18, and 28-31 as they inherit all the limitations of the claims from which they depend. Hence, at least for the reasons set forth above, claims 3, 4, 11, 13, 18, and 28-31 are allowable over the art of record.

SUMMARY

As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of Applicants' presently claimed invention, nor renders them obvious. It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this response has been timely filed, no request for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicants' representative at the below number.

Respectfully submitted,

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